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February 14, 2018

BY ECF

Honorable Gabriel W. Gorenstein
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: United States v. Hector Cruz, 17 Cr. 300 (GWG)

Dear Judge Gorenstein:

I submit this letter as a follow-up to our previous submission, in response to the Government's letter dated February 9, 2018 and to Your Honor's order dated February 12, 2018.

I provided Your Honor's order to Mr. Cruz after which I had a lengthy conversation with him regarding the Court's concerns expressed in the order. First, Mr. Cruz has affirmed to me that he has no intention of ever raising roosters again. He explained that this prosecution has been a "rude awakening" for him. He wants nothing more to do with roosters who would be engaged in combat. Despite the fact that some roosters were engaged to do so, his own actions were not "cruel" to them. Indeed, the roosters at issue were not the only animals he kept and cared for. He describes his dedication to these animals as somewhat of a replacement for a family.

His aim now, which he has already begun acting on, is to write about the history of raising animals and, with respect to roosters, to make it clear that they should not be trained to fight - which he now understands is cruel. He apologizes for making any previous comments that could be interpreted as condoning rooster fighting competition. Since Mr. Cruz was not training the roosters to fight nor fighting them, he convinced himself that only raising them was not improper. He now knows better. In his own words, he has "gotten past" his actions that brings him before the Court.

The letter that was annexed to Docket No. 48 to which Your Honor refers in your order was only intended to give an idea of the productive and laudatory work in the education field that has characterized the life of Mr. Cruz. The omission therein of any statements regarding his conduct that led to the charges is not indicative of a lack of remorse. Mr. Cruz is an interesting person who has now come to terms with his conduct. He understands that his cultural background must give way to the laws that address the type of conduct that our changing society now considers unacceptable – and, indeed, illegal. And he is now in agreement that rooster fighting competition is, in fact, unacceptable.

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Also, after receiving additional information from Mr. Cruz, I want to apprise the Court of his financial status that should affect his ability to pay a significant fine. The \$10,000 that was in his account is no longer there. This was the proceeds of an emergency loan which has now been given back. According to Mr. Cruz, the Board of Education notified him that, two years earlier, it had paid him \$12,000 incorrectly which it had recently discovered. Also, Mr. Cruz says, although his W-2 statement reports a salary of \$93,000, he only takes home slightly above \$70,000. With this in mind, as previously requested, we strongly suggest that Your Honor not impose a fine.

Finally, I urge Your Honor to reject the suggestion by the Government that some period of custody should be imposed – a result also rejected by the Probation Office. Besides being unnecessary, it would have a dramatic negative effect on Mr. Cruz's professional status.

Thank you for your courtesy and attention.

Very truly yours,

/s/ *Irving Cohen*
IRVING COHEN